

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3165 OF 2016

Kishor Baburao Chipat	... Petitioner
Vs.	
The State of Maharashtra	... Respondent

Ms. Sarojini Upadhyay, Advocate appointed for the petitioner.
Mr. Arfan Sait, APP for the respondent/State.

CORAM: **SMT. V.K. TAHILRAMANI &
MRS.MRIDULA BHATKAR, JJ.**

DATE : **SEPTEMBER 27, 2016**

P.C.:

The petitioner had preferred an application for furlough on 19th September, 2015. The police report was called for from Palghar Police Station. After the police report was received, DIG (Prisons), Aurangabad passed the order dated 17th February, 2016 stating that if the petitioner is willing to spend the period of furlough outside Palghar District and if he is willing to furnish a suitable and competent surety from the area in which he intends to spend the period of furlough, the statement to that effect be taken from the petitioner and then his application for furlough will be considered. However, the petitioner did not give any such statement within a period of 10 days. In view of this fact, the application of the petitioner for furlough was rejected by the order dated 3rd May, 2016.

2. The case of the petitioner is that he is from Adivasi community and it is not possible for him to furnish surety from some other district. It is further the case of the petitioner that co-accused Sanjay Soman was granted furlough based on the police report of the very same police station, i.e., Palghar Police Station. Co-accused Sanjay Soman was allowed to spend his period of furlough in Palghar District itself. Hence, the petitioner states that he should also be allowed to spend his period of furlough in Palghar District and he be allowed to furnish surety from Palghar district. Mrs. Usha, who is the wife of the petitioner, is willing to stand as surety for the petitioner.

3. Looking to the fact that the co-accused, who is similarly situated as the present petitioner, has been released on furlough and allowed to spend his period of furlough in Palghar district based on the police report of Palghar Police Station itself, we are inclined to set aside the order dated 3rd May, 2016 rejecting the application of the petitioner for furlough and the petitioner be allowed to spend the period of furlough in Palghar district and he be allowed to furnish surety of his wife Usha or surety of some other suitable and competent person. The petitioner be released on furlough as per the rules and usual terms and conditions as set out by the sanctioning authority.

4. Rule is made absolute in above terms.
5. Office to communicate this order to the petitioner who is in Nashik Road Central Prison. The fees to be paid to the appointed counsel are quantified at Rs.2,500/-.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)